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Planning Commission Date: January 28, 2004

Item No.

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report prepared by: Kim Duncan

Public Hearing: Yes: X No:

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TITLE: **TENTATIVE PARCEL MAP NO.S MI2003-4 AND MI2003-5**

Proposal: A request for two minor tentative parcel maps to subdivide 2 parcels at the Fleming Business Park.

Location: 991, 995, 1201 & 1225 Montague Expressway

APN: 086-31-058 and 059

RECOMMENDATION: **Approval with Conditions**

Applicant: South Bay Development Company, 1690 Dell Avenue, Campbell, CA 95008

Property Owner: Montague Milpitas LLC., c/o South Bay Development Company, 1690 Dell Avenue, Campbell, CA 95008

Previous Action(s): "S" Zone Approval and Amendment, Minor Tentative Map, Use Permits and Amendment

Environmental: EIA's No. 672 and EA2003-12

General Plan Designation: Heavy Industrial

Present Zoning: Heavy Industrial with S-Zone Overlay (M2-S)

Existing Land Use: Vacant industrial buildings

Agenda Sent To: Applicant/property owner, project manager

Attachments: Tentative Parcel Maps, letter from applicant dated December 11, 2003

PJ No.s: 3166 and 3167

BACKGROUND

The Planning Commission approved the following applications:

- December 11, 1996, an “S” Zone application and adopted Mitigated Negative Declaration (EIA No. 672) for Phase I of Warehouse Properties Inc. development plans for the 69 acre Fleming Food site. The proposed development included three new warehouse buildings and four new research and development/office buildings located on the northeast corner of Montague Expressway and Interstate 680.
- January 8, 1997, a Use Permit and “S” Zone approval-amendment for Phase II development that included an increased FAR for Parcel 1 to 40.9% and Parcel 3 to 43.2%.
- July 28, 1999, a Minor Tentative Map for division of the 69 acre parcel into 3 parcels, and, on November 10, 1999, approved Use Permit 1381 amendment to delete one condition of approval on the approved tentative map.
- January, 14, 2004, Use Permit No. UP2003-14 for the operation of a church in three of the four research and development buildings.

Site Description

The project site consists of two parcels (Parcel 1 and Parcel 3) at the northwest corner of Interstate 680 and fronting onto Montague Expressway. Parcel 1 is approximately 5.38 acres located on the western portion of the site and developed with two research and development buildings. Parcel 3 is approximately 7.02 acres located on the eastern portion of the site and also developed with two research and development buildings. A centrally located driveway between the two parcels provides primary two-way circulation access to the business park from Montague Expressway.

Surrounding land uses to the north of the subject parcels include tenants such as McCabes Quality Foods, Graebel Van Lines and One Work Place. A vacant chemical production plant is located to the west of the site. The parcels are bound on the south by Montague Expressway and the east by Interstate 680.

THE APPLICATION

The applications are submitted pursuant to Chapter 1 (Subdivisions), Section 4.00 of the Milpitas Municipal Code.

The applicant is requesting two tentative parcel maps for subdivision purposes for two of the three Fleming Business Park parcels. The applicant is proposing to subdivide Parcel 1 into two 117,100 +/- square foot parcels and Parcel 3 into two 152,900 +/- square foot parcels. The purpose of the proposed subdivision is to provide smaller businesses the opportunity to own and occupy one building on one parcel.

ISSUES

Conformance with the General Plan

The proposed project does not conflict with the General Plan and is consistent with Implementing Policies 2.a-I-3 and 2.a-I-7, which provide for opportunities to expand employment, promote business retention, and encourage economic pursuits that strengthen and promote development through stability and balance. By subdividing these parcels into separate parcels for each building, the property owner is able to foster individual business ownership within the Fleming Business Park. This allows the potential for smaller businesses to locate in the area that cannot afford to purchase and maintain the entire property.

Conformance with the Zoning Ordinance

The project does not conflict with the Zoning Ordinance and is in conformance in terms of land use and development standards. No change in land use is proposed as part of these tentative parcel maps and any future land uses would be subject to the permitted and conditional uses allowed in the Heavy Industrial (M2) District.

The original Fleming Business Park development, approved in 1996, was built in conformance with the standards of the M2 district, which have not changed since the approval. The proposed tentative parcel maps comply with the City's Zoning Ordinance development standards, as modified by the approved Use Permit and 'S' Zone applications, for the Heavy Industrial (M2) district, as described below:

Proposed Parcel 1 (991 Montague Expressway) (MI2003-5)

Development Standard	Proposed Project	Complies?
Front yard setback: 35 feet for lots having frontage on major streets.	35 feet	Yes
Side and rear yards: None	20 feet (side)/300 feet (rear)	Yes
Floor Area Ratio: 40% maximum	39.16%	Yes
Parking requirement: 152	173	Yes

Proposed Parcel 2 (995 Montague Expressway) (MI2003-5)

Development Standard	Proposed Project	Complies?
Front yard setback: 25 feet for lots having frontage on non-major streets.	90 feet	Yes
Side and rear yards: None	20 feet (side)/20 feet (rear)	Yes
Floor Area Ratio: 40% maximum	38.89%	Yes
Parking requirement: 152	173	Yes

Proposed Parcel 1 (1201 Montague Expressway) (MI2003-4)

Development Standard	Proposed Project	Complies?
Front yard setback: 35 feet for lots having frontage on major streets.	100 feet	Yes
Side and rear yards: None, except for street side of corner lots which shall be the same as the front yard	28 feet (side)/ 70 feet (rear)	No ¹
Floor Area Ratio: 40% maximum	40.94%	No ²
Parking requirement: 208	236	Yes

Proposed Parcel 2 (1225 Montague Expressway) (MI2003-4)

Development Standard	Proposed Project	Complies?
Front yard setback: 35 feet for lots having frontage on major streets.	145 feet	Yes
Side and rear yards: None, except for street side of corner lots which shall be the same as the front yard	15 feet (side)/240 feet (rear)	No ¹
Floor Area Ratio: 40% maximum	41.22%	No ²
Parking requirement: 210	238	Yes

¹ As approved by PC on 12/11/96

² FAR increase per Use Permit No. 1381 Amendment

Required Floor Area Ratio

Development standards for the Heavy Industrial (M2) zoning district require a minimum Floor Area Ratio (FAR) of 40%. On November 10, 1999, the Planning Commission approved a Use Permit Approval-Amendment (No. 1381) request for a FAR increase for Parcel 1 and Parcel 3 to exceed the development standards at the Fleming Business Park. The approved FAR increase for Parcel 1 was from 40% to 40.9% and for Parcel 3 from 40% to 43.2 %. The proposed FAR for the two new parcels on Parcel 1 do not exceed the current development standards of 40%. However, the proposed FAR for the two new parcels on Parcel 3 are 40.9% and 41.2%, well within the approved FAR increase of 43.2%.

Required Parking

When the Fleming Business Park was developed, parking was based on a 1 space per 300 square foot ratio for research and development uses, requiring 725 parking spaces. According to plans submitted by the applicant, there are 896 existing parking spaces provided on the existing two-parcel site. However, staff notes there may be future tenants with uses which require additional parking than the 1 space per 300 square foot ratio as provided for research and development uses. Therefore, due to the potential for joint use of parking, staff recommends as a condition of

approval, the applicant shall procure and record a cross-parking agreement prior to final map recordation between the following proposed parcels (located at):

991 and 995 Montague Expressway

995 and 1201 Montague Expressway

1201 and 1225 Montague Expressway

Conformance with the State Subdivision Map Act and Subdivision Ordinance

The Subdivision Map Act defers the approval of minor tentative parcel map applications to local ordinances (Article 5, Section 66463). The City's Subdivision Ordinance requires design and improvement consistency with the General Plan. As previously mentioned, the proposed Tentative Parcel Maps are in conformance with the General Plan.

Conformance with CEQA

The project is categorically exempt from further environmental review pursuant to Class 15, Section 15315 ("Minor Land Divisions) of the Environmental Quality Act (CEQA) guidelines. This section exempts such projects involving the division of property in urbanized area into four or fewer parcels when the division is in conformance with the General Plan and zoning. As discussed above, the proposed project is located in a developed, urbanized area and conforms to the General Plan and Zoning Ordinance.

RECOMMENDATION

Close the Public Hearing. Approve Minor Tentative Parcel Map No.'s MI2003-4 and MI2003-5 based on the Findings and Special Conditions listed below:

FINDINGS

1. The proposed project does not conflict with the General Plan and is consistent with Implementing Policies 2.a-I-3 and 2.a-I-7, which provides for opportunities to expand employment, promotes business retention, and encourages economic pursuits that strengthen and promote development through stability and balance.
2. The proposed project, as conditioned, does not conflict with Zoning Ordinance in terms of land use and development standards. Since no change in land use or to the building exterior or site is proposed, the proposed project remains in compliance with development standards and uses of the M2 district.
3. The proposed project is consistent with the State Subdivision Map Act and the Subdivision Ordinance in that it conforms to the local ordinance.
4. The proposed project is categorically exempt from further environmental review pursuant to Class 1, Section 15315 ("Minor Land Divisions) of the State CEQA Guidelines.

SPECIAL CONDITIONS

1. This approval is for two Minor Tentative Parcel Maps, No.s MI2003-4 and MI2003-5, to create two separate parcels located on 086-31-058 and 086-31-059, and as depicted on the Tentative Parcel Maps dated January 28, 2004, and as amended by the conditions of approval that follow. (P)
2. The proposed project shall be conducted in compliance with all applicable federal, state and local regulations. (P)
3. Prior to Final Map recordation, the applicant shall submit to the City for review by the City Attorney, and record, an irrevocable and in-perpetuity cross-parking agreement between the following parcels (located at): 991 and 995 Montague Expressway; 995 and 1201 Montague Expressway; 1201 and 1225 Montague Expressway. (P)
4. If, at the time of recordation of Final Map, there is a project job account past due balance to the City for recovery of review fees, review of permits will not be initiated until the balance is paid in full. (P)
5. The developer shall record a reciprocal access and maintenance agreement concurrent with the recordation of the parcel map. The reciprocal agreement shall provide for the use of lands and maintenance of all common private facilities including but not limited to, access, drainage, sewer, water, fire services, irrigation, landscaping, pavement, walls and other common area facilities. (E)
6. The parcel map shall be tied to the North America Datum of 1983 (NAD 83), California Coordinate of 1983, zone 3. (E)
7. The tentative map and parcel map shall designate all common lots and easements as lettered lots or lettered easements. (E)
8. The developer shall submit the following items with the building permit application and pay the related fees prior to final inspection (occupancy) by the Building Division:
 - a. Water Service Agreement(s) for water meter(s) and detector check(s).
 - b. Sewer Needs Questionnaire and/or Industrial Waste Questionnaire.Contact the Land Development Section of the Engineering Division at (408) 586-3329 to obtain the form(s). (E)
9. All existing on-site public utilities shall be protected in place and if necessary relocated as approved by the City Engineer. No permanent structure is permitted within City easements. (E)
10. Prior to any work within public right of way or City easement, the developer shall obtain an encroachment permit from City of Milpitas Engineering Division. (E)
11. *(Specific to MI2003-5, 991-995 Montague Expressway)* Prior to start of any work within the Montague Expressway right of way developer shall submit plans to Santa Clara County

Road and Airport Department for review and approval. Copies of these approvals and permits shall be submitted to the city of Milpitas Engineering Division. (E)

12. *(Specific to MI2003-4; 1201-1225 Montague Expressway)* Prior to start of any work within the Montague Expressway right of way developer shall submit plans to CALTRAN and Santa Clara County Road and Airport Department for review and approval. Copies of these approvals and permits shall be submitted to the city of Milpitas Engineering Division. (E)
13. Property owner/manager shall be responsible for the trash collection and recycling services account for all the tenants of this property. Prior to occupancy permit issuance, the property owner/manager shall submit evidence to the City that the following minimum refuse and recycling services have been subscribed with BFI for commercial services:
 - a. An adequate level of service for trash collection.
 - b. An adequate level of recycling collection.After the applicant has started its business, BFI commercial representative shall determine the adequacy of the solid waste level of services. If services found to be inadequate, the property owner/manager shall increase the service to the level determined by the evaluation. For general information, contact BFI at (408) 432-1234, x-264. (E)
14. Make changes as noted on Engineering Services Exhibit "T"(dated 12/29/2003) and submit a revised tentative map to the Planning Division. (E)



December 11, 2003

Ms. Kim Duncan
Planning Department
City of Milpitas
Planning Department
455 E. Calaveras Boulevard
Milpitas, CA 95035-5479

RE: Letter of Description
For Lot Splits at
991 and 955 Montague and 1201 and 1225 Montague

ARC TEC # 031164

Dear Ms. Duncan:

South Bay Development wishes to parcelize 2 separate parcels into 4 separate parcels in the City of Milpitas. The existing parcels are 991 and 955 Montague (APN #: 086-31-058) and 1201 and 1225 Montague (APN #: 086-31-059). The site is currently zoned M2 per section 31.

The parcels are being split so that the site areas and FARs are nearly equal between each of the 2 parcels. The proposed FARs do not exceed the previously approved FARs.

South Bay Development wishes to subdivide each building and property to allow for maximum flexibility in order to provide a perspective company the ability to own and occupy one building and one parcel. If you have any questions, please feel free to call.

Sincerely,

ARC TEC, Inc.

James R. Fulton
Project Manager

JRF/lrb

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